



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL.**

December 3, 1971

Hon. Louis L. McDaniels
Executive Director
Texas Water Rights Commission
Sam Houston State Office Bldg.
Austin, Texas

Opinion No. M-1010

Re: Whether the Rio Grande Compact Commission can pay a new employee as a Hydrologist I, (Group 17, Step 1) an annual salary of \$11,616.00 when the Commissioner of the Rio Grande Compact is receiving an annual salary of \$6,000.00

Dear Mr. McDaniels:

You have requested our opinion as to whether the Rio Grande Compact Commission can pay a new employee as a Hydrologist I, (Group 17, Step 1) an annual salary of \$11,616.00 or other rate deemed comparable, when the Rio Grande Compact Commissioner by law can only receive \$6,000.00 per year.

We assume that your inquiry relates to a person who will be a full-time state engineer, rather than an independent contractor, although this is not controlling; your letter so states. This new position must be comparable to the job classification act. General Appropriation Act, Pages V-27, 28, Supplement to Senate Journal, S.B. 11, Acts 62nd Leg., R.S., 1971, as amended by S.B. 7, 1st C.S. 62nd Leg., 1971. You also know that you are authorized to pay less than the amount set forth in a line item or maximum decided upon for a comparable position. Sec. 2a, page V-32, General Appropriation Act, supra.

The Rio Grande Compact Commission of Texas has authority to hire an engineer or several engineers subject only to the existence and conditions of appropriations therefor by the Texas Legislature. Section 41.007, Texas Water Code; General Appropriations Act for fiscal year September 1, 1971 to August 31, 1972, Item 13, page III-155, Senate Journal, supra. He is not to take bids on this employment, but is to hire a

competent engineer. Art. 664-4, V.C.S. as enacted by Acts 62nd Leg., R.S., 1971, Phap. 38, p. 72, effective March 31, 1971.

"No state agency,...shall make any contract for, or engage the professional services of, any licensed...registered engineer...selected on the basis of competitive bids...but shall select...such services on the basis of demonstrated competence...and at fair and reasonable prices...consistent with and not higher than the published recommended practices and fees...of the associations and do not exceed the maximum provided by any state law."

The money is appropriated as Item 13, of the Water Rights Commission appropriation reads (at p. III-155):

"For the year Ending
August 31, 1972

"13. To the Rio Grande Compact
Commissioner for payment
of salaries and other necessary expenses as authorized
by the Rio Grande Compact
of 1938, codified as Article
7466e--1, Vernon's Civil
Statutes, including \$12,000
for the Commissioner's salary
"\$51,215"

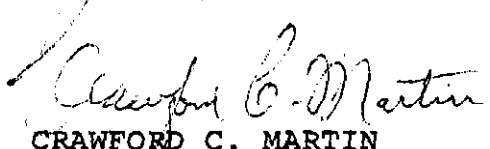
The \$46,715 appropriated for the fiscal year ending August 31, 1973 was vetoed by the Governor. Between the present time and until September 1, 1972, the Commissioner for Texas on the Rio Grande Compact is the State Officer to decide what reasonable salary shall be paid to an engineer or other experts he employs, and his decision is subject only to the laws of Texas relating to appropriated moneys. The salary appropriated to the Commissioner has no relation to this decision by the Compact Commissioner or by the Texas Water Rights Commission as to the salary of the engineer.

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S U M M A R Y

Item 13 of the appropriation shown at page III-155 of the current general appropriation act (Acts 62nd. Leg., R.S. 1971, S.B. 11, as amended by S.B. 7, 1st C.S., same Leg.) may be used for the purpose of paying a salary to a Hydrologist I employed by the Rio Grande Compact Commissioner in the amount of \$11,616.00.

Yours very truly,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by Roger Tyler
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

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